

Received & Inspected

JAN 24 2013

FCC Mail Room

January 16, 2013

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Room TW-A325
Washington, D.C. 20554

RE: WC Docket No. 08-71 and CC Docket No. 96-45, Petition for Waiver of Micronesia Telecommunications Corporation (MTC) (SAC 653700)

Attention: Wireline Competition Bureau

Dear Ms. Dortch:

Pursuant to Section 1.3 of the Commission's rules, enclosed for filing are an original and two (2) copies of the Micronesia Telecommunications Corporation (MTC) Petition for Waiver of Section 54.301(e) of the Commission's rules for submission of Local Switching Support true-up data.

We respectfully request that you provide the company with official notification that this filing has been received by stamping the copy of this filing marked "File Stamp Copy" and returning it in the self-addressed stamped envelope provided in this filing. Thank you for your assistance with this matter.

Please do not hesitate to contact me if you have any questions, or if you require additional information. If there are any questions, please call me on 670-682-2609.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R Soledad", is written over the typed name.

Rose Soledad
Managing Director

Enclosure
Copy to Amy Bender, WCB FCC

P.O. Box 500306

Saipan, MP 96950

Tel: (670) 682-4ITE (4483)

Fax: (670) 234-8575

www.ite.ne

JAN 24 2013

FCC Mail Room

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
)	
Micronesia Telecommunications Corporation)	
(SAC 653700))	
)	
)	
Petition for Waiver of Section 54.301 (e))	
Submission Date For 2011 Local Switching)	WC Docket No. 08-71
Support True-Up Data)	
)	
)	
To: Chief, Wireline Competition Bureau)	
)	
)	

PETITION FOR WAIVER

Micronesia Telecommunications Corporation (MTC), pursuant to Section 1.3 of the Commission's Rules¹ requests a waiver of the December 31, 2012 date established by Section 54.301 (e)² of the Commission's Rules for submission of Local Switching Support (LSS) true-up data for the 2011 calendar year. MTC failed to provide its 2011 LSS true-up data to the Universal Service Administrative Company (USAC) in a timely fashion, due to an inadvertent clerical error. As described herein, a waiver of the filing deadline is respectfully requested.

¹ 47 C.F.R. § 1.3.

² 47 C.F.R. § 54.301(e) True-up adjustment - - (1) Submission of true-up data. Each incumbent local exchange carrier that has been designated an eligible telecommunications carrier and that serves a study area with 50,000 or fewer access lines shall, for each study area, provide the Administrator with the historical total unseparated dollar amount assigned to each account listed in paragraph (b) of this section for each calendar year no later than 12 months after the end of such calendar year.

I. Background

MTC is a rural incumbent Local Exchange Carrier (ILEC) providing service to the islands of Saipan, Tinian, and Rota in the Commonwealth of the Northern Mariana Islands (CNMI). As of December 31, 2012, MTC served 14,757 access lines in the Study Area Code Number 653700.

MTC is designated as an Eligible Telecommunications Carrier (ETC) by the Commonwealth Public Utilities Commission. MTC has been submitting LSS true-up data and other federal High Cost Support forms and reports to USAC in a timely fashion since MTC began requesting Universal Service Fund support. MTC has not previously filed for a waiver of a federal universal service filing deadline, or had a federal universal service filing returned for being defective or incomplete in any way. For the reasons described below, MTC did not submit the 2011 true-up data to USAC in time to comply with the requirements of Section 54.301(e), and consequently must receive grant of this instant waiver request to retain its LSS support for 2011.

Due to an inadvertent clerical oversight, the deadline for the LSS true-up data was inadvertently and unintentionally missed by three days. MTC has put in place procedures to ensure that such an oversight never occurs again and prepared this request for waiver.

II. Grant of this Waiver is Consistent with the Public Interest and is Warranted

Generally, the Commission's rules may be waived for good cause shown.³ Furthermore, the Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.⁴ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁵ In light of the circumstances discussed above, and the fact that good cause was shown in this Petition demonstrating why the rules found in Section 54.301 (e) should be waived, how failure to waive these rules would be inconsistent with the public interest, and how the financial impact of strict compliance with the rule would create undue hardship for the company, MTC submits that the requested waiver should be granted.

MTC understands that, absent the grant of this requested waiver, that it may lose its LSS support for 2011. Such an outcome would result in substantial hardship for the company. Specifically, the company would lose its LSS support for an entire year. This loss would total approximately \$625,000. The negative impact of this outcome would undeniably impair MTC's ability to serve its rural customers with essential telecommunications services.

Indeed, absent the grant of this request for a waiver, the company would experience substantial hardship. The loss by MTC of approximately \$625,000 in received LSS support for 2011 will be extremely onerous and disruptive, because the company will not have any offsetting reductions in its 2011 local switching costs.

³ 47 C.F.R. § 1.3.

⁴ *Northeast Cellular Telephone Co., L.P. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990)(*Northeast Cellular*).

⁵ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) and *Northeast Cellular*, 897 F.2d at 1166.

If this waiver is not granted, MTC will lose its 2011 LSS support which has already been used to provide local switching service to its rural customers. This loss cannot be made up from any other revenue source, and such a loss would most likely force MTC to seek rate relief as well as curtail services or otherwise delay proposed capital expenditures. This situation creates an unnecessary burden on MTC and its customers, particularly since the error was for a period of three calendar days that included a holiday. MTC submits that the negative impact this financial loss will have on its company is not in the public interest, and would be an unfair and unfortunate outcome for the company and its customers if the requested waiver is denied.

Waivers where rural ILECs have missed LSS filing deadlines and which would create financial hardship for the company's customers have been granted in the past. In granting the waiver request filed by Northeast Iowa Telephone Company (Northeast Iowa) in which it sought waiver of a related LSS filing requirement, Section 54.301(b) of the Commission's Rule, the Commission stated:

We conclude that denial of all LSS to Northeast Iowa in calendar year 2008 could result in substantial hardship to Northeast Iowa's rural customers. Unlike the requirements for other types of universal service support, (12) carriers must file data annually in order to receive LSS. (13) Therefore, if a carrier misses the annual deadline, it will not receive funding for an entire year. As such, the loss of LSS has a much greater impact on a small carrier's capacity to ensure that customers have and maintain access to service at just, reasonable, and affordable rates than the loss of other types of universal service support. Indeed, the loss of LSS for an entire calendar year in these instances may have a significant effect on the rates that Northeast Iowa charges its customers. (14) Likewise, the loss of LSS may adversely affect Northeast Iowa's ability to continue to provide quality service to its customers. (15) For these reasons, we have previously found in other instances that waiver of section 54.301(b) of the Commission's rules would serve the public interest.⁶

⁶ See In the Matter of Petition for Waiver of Universal Service High-Cost Filing Deadlines, Federal-State Joint Board on Universal Service, Northeast Iowa Telephone Company, Petition for Waiver Order, WC Docket No. 08-71 and CC Docket No. 96-45, Paragraph 4, released April 21, 2009.

Furthermore, the Commission has granted waivers similar to MTC's request when petitioners have shown that the internal procedures have been revised to ensure future compliance with filing deadlines.⁷ This instant waiver request affirms that this requirement has been met. MTC's record of compliance with USAC reporting obligations should also factor into the Commission's assessment of this waiver request. MTC has never previously missed a USAC filing deadline. The Commission found this to be a consideration in the granted waiver request of Citizens Communications and Frontier Communications.⁸

III. Request for Expedited Action

MTC will have no choice but to take drastic measures if they are forced to refund their 2011 LSS support. These funds are needed and used by MTC to support its ongoing costs and capital improvements to upgrade its network and to provide advanced services. The required LSS true-up data that should have been filed by December 31, 2012, was filed with USAC on January 3, 2013, and a copy of that filing is being submitted with this Petition as Attachment 1. Expeditionary grant of this waiver would allow USAC to incorporate this true-up data into its accounting process without delay in order to determine the appropriate 2011 LSS support levels for MTC. MTC respectfully requests expedited action by the Commission so that USAC can be properly notified as soon as practical to ensure that future settlements will accurately reflect MTC's appropriate 2011 LSS support levels.

⁷ See, e.g. USF Filing Deadline Waiver Order, paragraph 15: Specifically, we find that waivers are warranted because the petitioners either promptly filed the required data and have revised their internal procedures to ensure compliance with the Commission's rules or made a reasonable and good faith attempt to comply with the Commission's rules before the application deadlines.


⁸ Citizens Communications and Frontier Communications Request for Review of a Decision of the Universal Service Administrator and Petition for Waiver of the FCC Rule Section 54.802(a), Order released October 27, 2005.

IV. Conclusion

MTC deeply regrets that the 2011 LSS true-up data was filed shortly after the December 31, 2012 due date. As noted earlier, MTC has taken steps to ensure that this will never happen again. For the reasons stated herein, MTC submits that good cause has been shown to support the granting of the requested waiver as set forth in this Petition. Grant of the requested waiver will allow MTC to retain the appropriate LSS support/disbursements for 2011 consistent with the statutory goal of preserving and advancing universal service for the rural customers served by the company.

This result will be consistent with the public interest and the general goals of universal service. Expedited action is requested to minimize the possibility that the 2011 LSS support disbursements for MTC will be disturbed, and will therefore bring financial certainty to a situation that has the potential for untenable consequences for the customers of the company. With the grant of the instant waiver, MTC will receive the LSS support that was intended under the universal service plan policies, with no adverse affects on the company, its customers, or any other carrier.

Respectfully submitted,


Rose Soledad
Managing Director
January 17, 2013

Attachment 1

**LOCAL SWITCHING SUPPORT
DATA COLLECTION FORM
COST COMPANY**

Approved by OMB
3060-0814
Ave. Burden Estimate per Respondent: 24 Hours

(010)	Exchange Carrier Study Area Code	(010)	<u>653700</u>
(020)	Exchange Carrier Study Area Name	(020)	<u>Micronesia Telecommunications Corporation</u>
(023)	Data Period	(023)	<u>2011</u>
(025)	Submission Period (Check One)	Original Projection	<input type="checkbox"/> True-up to Actual <input checked="" type="checkbox"/>

(030)	Contact Name: Person USAC should contact for questions about this data	(030)	<u>Dave Lashua</u>
(040)	Contact Telephone Number: Number of the person identified in Data Line (030).	(040)	<u>(503) 612-4442</u>
(045)	Tax Status (Y = Taxable, N = NonTaxable)	(045)	<u>N</u>

II. WORKING LOOPS & DIAL EQUIPMENT MINUTE FACTOR

(050)	Category 1.3 Loops: Enter the count of Category 1.3 Loops excluding Category 1.3 TWX (Teletypewriter Exchange service) loops.	(050)	<u>15,180</u>
(060)	1996 Interstate Unweighted Dial Equipment Minute (DEM) Factor used in 1996 Cost Study (n.nnnnnn)	(060)	<u>0.136529</u>
(070)	1996 DEM Weighting Factor (n.n)	(070)	<u>2.5</u>

III. INVESTMENT, PLANT OPERATIONS EXPENSE AND TAXES

	<u>Total Account</u>	<u>Local Switching</u>
(100) Account 2001 - Telecommunication Plant in Service	(100) <u>81,438,489</u>	
(110) Account 2210 - Central Office Switching Equipment	(110) <u>15,181,778</u>	
(115) Account 2210 Cat. 3 - COE Category 3 (local switching)	(115) <u>15,181,778</u>	<u>\$15,181,778</u>
(120) Account 2220 - Operator System Equipment	(120) <u>689,117</u>	
(130) Account 2230 - Central Office Transmission Equipment	(130) <u>6,548,280</u>	
(140) Total Central Office Equipment [Sum of Data Lines (110) + (120) + (130)]	(140) <u>22,419,175</u>	
(150) Account 2310 - Information Origination/Termination	(150) <u>0</u>	
(160) Account 2410 - Cable and Wire Facilities	(160) <u>45,519,665</u>	
(170) Account 2110 - General Support Facilities	(170) <u>12,105,548</u>	<u>\$2,705,130</u>
(180) Account 2680 - Amortizable Tangible Assets	(180) <u>1,394,101</u>	<u>\$311,529</u>
(190) Account 2690 - Intangibles	(190) <u>0</u>	<u>\$0</u>
(200) Account 2002 - Property Held for Future Telecommunications Use	(200) <u>0</u>	<u>\$0</u>
(210) Account 2003 - Telecommunications Plant Under Construction	(210) <u>344,951</u>	<u>\$64,306</u>
(220) Account 2005 - Telecommunications Plant Adjustment	(220) <u>0</u>	<u>\$0</u>
(230) Account 1402 - Investments in non-Affiliated Companies (Rural Telephone Bank Stock)	(230) <u>0</u>	<u>\$0</u>
(240) Account 1220 - Materials and Supplies	(240) <u>1,162,610</u>	<u>\$216,734</u>
(250) Cash Working Capital	(250) <u>438,823</u>	<u>\$81,805</u>
(260) Account 3100 - Accumulated Depreciation-Switching	(260) <u>14,493,278</u>	<u>\$14,493,278</u>
(265) Account 3100 - Accumulated Depreciation-Support Assets	(265) <u>8,172,926</u>	<u>\$1,523,597</u>

**LOCAL SWITCHING SUPPORT
DATA COLLECTION FORM
COST COMPANY**

Approved by OMB
3060-0814
Ave. Burden Estimate per Respondent: 24 Hours

(010)	Exchange Carrier Study Area Code	(010)	<u>653700</u>
(020)	Exchange Carrier Study Area Name	(020)	<u>Micronesia Telecommunications Corporation</u>
(023)	Data Period	(023)	<u>2011</u>
(025)	Submission Period (Check One)	Original Projection	<input type="checkbox"/> True-up to Actual <input checked="" type="checkbox"/>

(270)	Account 4100 - Net Deferred Operating Income Taxes	(270)	<u>0</u>	<u>\$0</u>
(280)	Account 4340 - Net Noncurrent Operating Income Taxes	(280)	<u>0</u>	<u>\$0</u>
(290)	Account 3400 - Accumulated Amortization - Tangible	(290)	<u>1,166,693</u>	<u>\$217,495</u>
(300)	Account 3500 - Accumulated Amortization - Intangible	(300)	<u>0</u>	<u>\$0</u>
(310)	Account 3600 - Accumulated Amortization - Other	(310)	<u>0</u>	<u>\$0</u>
(320)	Account 6110 - Network Support Expense	(320)	<u>83,075</u>	<u>\$15,487</u>
(330)	Account 6120 - General Support Expense	(330)	<u>813,899</u>	<u>\$181,875</u>
(340)	Account 6210 - Central Office Switching Expense	(340)	<u>458,778</u>	<u>\$310,674</u>
(350)	Account 6220 - Operator Systems Expense	(350)	<u>833</u>	<u>\$564</u>
(360)	Account 6230 - Central Office Transmission Expense	(360)	<u>1,092,393</u>	<u>\$739,745</u>
(361)	Account 6310 - Information Origination/Termination Expense	(361)	<u>0</u>	
(362)	Account 6410 - Cable and Wire Facilities Expense	(362)	<u>401,966</u>	
(370)	Account 6510 - Other Property Plant and Equipment Expense	(370)	<u>(332)</u>	<u>-\$62</u>
(380)	Account 6530 - Network Operations Expense	(380)	<u>1,068,654</u>	<u>\$199,218</u>
(381)	Account 6540 - Access Expense	(381)	<u>246,696</u>	
(390)	Account 6610 - Customer Services Marketing Expense	(390)	<u>182,106</u>	<u>\$33,948</u>
(400)	Account 6620 - Customer Operations Services Expense	(400)	<u>1,648,968</u>	<u>\$307,401</u>
(410)	Account 6710 - Executive and Planning Expense	(410)	<u>0</u>	<u>\$0</u>
(420)	Account 6720 - Corporate Operations Expense	(420)	<u>1,999,191</u>	<u>\$655,545</u>
(430)	Account 7230 - Operating State and Local Income Taxes	(430)	<u>0</u>	<u>\$0</u>
(440)	Account 7240 - Operating Other Taxes	(440)	<u>930,891</u>	<u>\$173,537</u>
(450)	Account 7210 - Operating Investment Tax Credits - net	(450)	<u>0</u>	<u>\$0</u>
(460)	Account 7250 - Provision for Deferred Operating Income Taxes -net	(460)	<u>0</u>	<u>\$0</u>
(470)	Account 6560 - Depreciation and Amortization Expense-Switching	(470)	<u>111,532</u>	<u>\$111,532</u>
(475)	Account 6560 - Depreciation and Amortization Expense-Support	(475)	<u>316,401</u>	<u>\$58,983</u>
(480)	Account 7370 - Charitable Contributions only	(480)	<u>132,314</u>	<u>\$24,666</u>
(490)	Account 7500 - Interest and Related Items	(490)	<u>0</u>	<u>\$0</u>
(500)	Account 7340 - Allowance for Funds Used During Construction	(500)	<u>0</u>	<u>\$0</u>

**LOCAL SWITCHING SUPPORT
DATA COLLECTION FORM
COST COMPANY**

Approved by OMB
3060-0814
Ave. Burden Estimate per Respondent: 24 Hours

(010)	Exchange Carrier Study Area Code	(010)	<u>653700</u>
(020)	Exchange Carrier Study Area Name	(020)	<u>Micronesia Telecommunications Corporation</u>
(023)	Data Period	(023)	<u>2011</u>
(025)	Submission Period (Check One)	Original Projection	<input type="checkbox"/> True-up to Actual <input checked="" type="checkbox"/>

(510)	Account 1410 - Other Non-current Assets	(510)	<u>0</u>	<u>\$0</u>
(520)	Account 1500 - Other Jurisdictional Assets - net	(520)	<u>0</u>	<u>\$0</u>
(530)	Account 4370 - Other Jurisdictional Liabilities and Deferred Credits - net	(530)	<u>0</u>	<u>\$0</u>
(540)	Account 4040 - Customer Deposits	(540)	<u>647,523</u>	<u>\$120,711</u>
(550)	Account 4310 - Other Long-Term Liabilities	(550)	<u>0</u>	<u>\$0</u>
(560)	Account 1438 - Deferred Maintenance and Retirements	(560)	<u>0</u>	<u>\$0</u>

A Factor	((COE Category 3)/(COE+CWF+IOT))	<u>0.223462</u>
B Factor	(COE Category 3/Total Plant In Service)	<u>0.186420</u>
C Factor	(COE Category 3/Total COE)	<u>0.677178</u>
D Factor	(COE 3 Expense/Big 3 Expense)	<u>0.327905</u>
E Factor	(COE 3/COE Switching)	<u>1.000000</u>

Current Period Net Investment	<u>\$2,206,200</u>
Prior Period Net Investment	<u>\$2,152,878</u>
Average Net Investment	<u>\$2,179,539</u>
Return on Investment	<u>\$245,198</u>
Federal Taxable Income	<u>\$0</u>
Federal Income Tax Requirement	<u>\$0</u>
Expenses and Other Taxes	<u>\$2,813,114</u>
Local Switching Revenue Requirement	<u>\$3,058,312</u>
Local Switching Support	<u>\$626,321</u>

Local Switching Support

CERTIFICATION

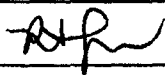
This certification statement must be signed by the officer or employee responsible for the overall preparation of the data submission. (Ref. Part 54 of FCC Rules, 47 C.F.R. section 54.707)

The completed certification statement must accompany the data submission.

CERTIFICATION

I am Managing Director (Title of Certifying Officer or Employee). I hereby certify that I have overall responsibility for the preparation of all data in the attached 2011 Local Switching Support True-Up data submission for Micronesian Telecommunications Corporation (Name of Carrier) and that I am authorized to execute this certification. Based on information known to me or provided to me by employees responsible for the preparation of the data in this submission, I hereby certify that the data have been examined and reviewed and are complete, accurate, and consistent with the rules of the Federal Communications Commission.

Date: January 3, 2013

Certifying Signature: 

Name: ROSE A. SOLEDAD

Title: Managing Director

Period Covered: January 1, 2011 to December 31, 2011

Persons willfully making false statements on this form can be punished by fine or forfeiture under the Communications Act of 1934, as amended, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001.